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21 UNITED STATES DISTRICT COURT  
22 DISTRICT OF NEVADA

23 FRED COLEMAN,

Case No. \_\_\_\_\_

24 Plaintiff,

**VERIFIED COMPLAINT**

25 v.

**PLAINTIFF DEMANDS  
A TRIAL BY JURY**

26 BARRICK GOLDSTRIKE MINES, INC.

27 Defendant.  
28 \_\_\_\_\_/

Plaintiff Fred Coleman ("Mr. Coleman"), by and through his attorneys, J. Christopher Albanese and M. Dinora Smith of White, Hilferty & Albanese and Daniel T. Hayward of Bradley, Drendel & Jeanney, hereby complains of Defendant, upon information and belief as follows:

**NATURE OF THE CASE**

1. Plaintiff brings this action alleging that Defendant has violated the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.* and Nevada Revised Statutes § 613 *et seq.* and seeks damages to redress the injuries he has suffered as a result of being Discriminated

1 Against on the Basis of his Age and Retaliated Against for his Engagement in Protected Activity.

2 **JURISDICTION & VENUE**

1.3 2. Jurisdiction of this Court is proper under 29 U.S.C. § 621 *et seq.* and 28 U.S.C. §§ 1331 and  
4 1343.

2.5 3. The Court has supplemental jurisdiction over Plaintiff's claims brought under state law  
6 pursuant to 28 U.S.C. § 1367.

3.7 4. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) as it is a judicial district in  
8 which a substantial part of the events or omissions giving rise to the claims occurred.

9 **PROCEDURAL REQUIREMENTS**

10 5. On January 2, 2018, Mr. Coleman filed a charge of discrimination with the Equal  
11 Employment Opportunity Commission ("EEOC"), Charge No. 550-2018-00301, ("First  
12 Charge").

14 6. On May 9, 2018, Mr. Coleman filed an Amended Complaint to his First Charge.

15 7. On September 8, 2019, Mr. Coleman filed a charge of discrimination and retaliation with the  
16 EEOC, Charge No. 550-2019-01792, ("Second Charge").

17 8. On October 27, 2020, the EEOC issued Dismissal and Notice of Rights letters for both the  
18 First and Second Charge.

19 9. Mr. Coleman has filed this complaint within 90 days of issuance of these letters.

21 **THE PARTIES**

22 10. Plaintiff FRED COLEMAN was and is a resident of Elko County, Nevada. Mr. Coleman is  
23 over the age of forty. Mr. Coleman engaged in protected activity by filing two complaints of  
24 discrimination with the EEOC, an internal complaint of discrimination and retaliation in  
25 February 2018, and repeatedly verbally complained of age discrimination to his supervisors  
26 and Human Resources representatives.

27 11. Defendant BARRICK GOLDSTRIKE MINES, INC. ("Defendant"), operates the Goldstrike  
28

mine in located in Elko, Nevada. At all times relevant, Defendant owned, operated, and/or maintained its place of business in Elko County, Nevada.

### MATERIAL FACTS

12. Defendant hired Mr. Coleman on February 5, 2010 as a Haul Truck Driver. Mr. Coleman's date of birth is June 1, 1943.
13. Defendant mercilessly subjected Mr. Coleman to an extremely discriminatory company culture due to his age. Mr. Coleman's colleagues, along with Respondent's management team, routinely singled Mr. Coleman out, mocked him, and harassed him on a daily basis due to his age. Such acts were so severe that multiple colleagues noticed and took note.
14. During a meeting in 2017, General Manager Bill MacNevin commented during a meeting that there were a lot of "old people" working for Defendants and where he comes from "we get rid of old people."
15. Throughout 2017, Defendant attempted to flood Mr. Coleman's file with baseless reprimands to justify his future termination due to a discriminatory animus towards his age. Defendant either could not produce any evidence to show Mr. Coleman was at fault for the events underlying these reprimands, or, the employees at fault were younger than Mr. Coleman and failed to be subjected to the same discipline or adverse treatment as Mr. Coleman.
16. Beginning in June 2017, Defendant began to target various older employees, including Mr. Coleman, either terminating them or creating a work environment so inhospitable it forced their resignation.
17. For example, on June 8, 2017, Defendant accused Mr. Coleman of running over a chock block four days prior. Defendant's investigation report itself indicated that it found "no evidence" to indicate Mr. Coleman was at fault, but concluded the only feasible explanation for the accident would be that Mr. Coleman was at fault. Defendant generated this report due to an incorrect assumption. Mr. Coleman refused to sign the reprimand because he was not guilty of running over the chock block. Supervisor Rod Theisen took Mr. Coleman aside and indicated he would suspend Mr. Coleman should he refuse to sign the reprimand. Mr.

- 1 Coleman agreed to sign it but indicated it was under duress. Mr. Coleman lost one-third of  
2 his bonus as a result.
- 3 18. On June 15, 2017, Supervisor Steve Thuringer asked Mr. Coleman, “when are you going to  
4 retire?”
- 5 19. Again, on June 18, 2017, Thuringer asked Mr. Coleman, “when are you going to retire?”
- 6 20. Again, on July 2, 2017, Thuringer, in an unfriendly tone, asked Mr. Coleman, “when are you  
7 going to retire?”
- 8 21. On July 4, 2017, colleague Jeff Otten told Mr. Coleman that Barrick supervisors stated that  
9 they intended to get rid of older employees and hire “younger more vigorous employees.”
- 10 22. On July 6, 2017, Mr. Coleman informed Human Resources representatives Joannie Jarvis  
11 and Holly Saucier he was routinely bullied due to his age. Mr. Coleman represented to both  
12 employees that he was experiencing age discrimination; both employees denied this fact,  
13 simply stating, “no, it is not.” Both employees proceeded to ask when Mr. Coleman was  
14 going to retire.
- 15 23. On August 19, 2017, Thuringer asked Mr. Coleman on the bus to work again, “when are you  
16 going to retire...and you need to retire.”
- 17 24. On August 20, 2017, Defendant, specifically the cohort of Thuringer, Dispatcher Serena  
18 Anthony, and Supervisor Trent Campbell, attempted to claim Mr. Coleman was incorrectly  
19 dumping ore; Mr. Coleman was correctly dumping waste. Defendant was attempting to  
20 generate grounds for Mr. Coleman’s termination due to his age, as reflected by Thuringer’s  
21 commentary.
- 22 25. On September 29, 2017, Defendant issued a Decision-Making Leave Date (“DLMD”),  
23 constituting a final warning, against Mr. Coleman.
- 24 26. On October 7, 2017, Thuringer threatened Mr. Coleman, stating “I will get you and you  
25 better remember it.”
- 26 27. On October 8, 2017, management made Mr. Coleman drive his truck with a three-foot hole  
27 in the headache rack above his cab where large boulders are loaded. Management stated it  
28 was safe for driving; in fact, it was quite dangerous. Defendant was launching its attempts

1 to force Mr. Coleman's resignation by subjecting him to physical danger motivated by a  
2 discriminatory animus towards his age.

3 28. On October 10, 2017, Mr. Coleman was placed on short term disability and FLMA until  
4 January 1, 2018 due to a diagnosis of severe anxiety caused by his hostile work environment.

5 29. On January 2, 2018, Mr. Coleman filed his First Charge.

6 30. On January 5, 2018, Mr. Coleman returned to work. Theisen gave Mr. Coleman an  
7 evaluation on the first date of his return and baselessly downgraded his evaluation of Mr.  
8 Coleman as a result. Downgrading his evaluation negatively impacted Mr. Coleman's  
9 employment opportunities within Defendant's company. Mr. Coleman indicated to Theisen  
10 he wanted training on a dozer. Theisen indicated younger employees were being trained and  
11 Mr. Coleman would be trained after them. Through May 2018, Mr. Coleman was passed over  
12 for training in lieu of younger new hires.

13 31. On January 5, 2018, Equipment Operator Billy Calvert walked up to Mr. Coleman and called  
14 him "old man."

15 32. On January 6, 2018, Wilber Greer commented he heard Thuringer say Mr. Coleman "needs  
16 to retire."

17 33. On January 16, 2018, Mr. Coleman complained about the age discrimination during his  
18 appeal meeting to Human Resources representatives Sherry Murphy and Julius. They refused  
19 to file a report, as usual, and took no further action. Defendant's employees routinely refused  
20 to accept Mr. Coleman's complaints and dismissed them aggressively.

21 34. On January 27, 2018, two of Mr. Coleman's colleagues coordinated to file a false  
22 'Recognize, Report & Resolve Card' ("3R") against Mr. Coleman alleging that he had unsafe  
23 driving practices. Specifically, Jason Brinkerhoff ("Brinkerhoff") and Tzena Venckus  
24 ("Venckus") alleged that Mr. Coleman drove his vehicle through an intersection at high  
25 speeds without yielding or otherwise verifying that it was safe to do so. Following these  
26 allegations, Respondent suspended Mr. Coleman without pay, which caused him to lose both  
27 his salary and a substantial amount of overtime pay. Defendant eventually granted Mr.  
28 Coleman his base salary but refused to provide the lost overtime.

1 35. On January 29, 2018, Defendant suspended Mr. Coleman to investigate the matter.

2 36. Following its investigation, including video exonerating Mr. Coleman of any wrongdoing,  
 3 Respondent was unable to corroborate Brinkerhoff's and Venckus' 3R allegations against  
 4 Mr. Coleman and thus cleared him of any fault or wrongdoing. It was known amongst  
 5 Defendant's employees that Mr. Coleman routinely lodged age discrimination complaints.  
 6 Upon information and belief, Brinkerhoff and Venckus knew of management's intentions  
 7 to force Mr. Coleman to resign or otherwise terminate him due to his age and engagement  
 8 in protected activity. Brinkerhoff and Venckus engaged in this false report to generate  
 9 pretextual performance deficiencies against Mr. Coleman to curry favor with management.  
 10 Defendant used this knowingly false report to retaliate against Mr. Coleman. Despite Barrick  
 11 policy against filing false reports, neither Brinkerhoff nor Venckus underwent any  
 12 disciplinary measures for their false allegations against Mr. Coleman. Mr. Coleman,  
 13 however, never received remuneration for his missed days of work. The false 3R report  
 14 occurred less than one month after Mr. Coleman's initial EEOC charge.

15 37. On January 31, 2018, Defendant, specifically Theisen, Manager Jim Yaunick, and Human  
 16 Resources employee Nick Nelsen, met with Mr. Coleman to discuss the dismissed charges.  
 17 Mr. Coleman verbally raised that he felt discriminated against due to his age, that these  
 18 charges were raised due to a discriminatory animus towards his age, and that employees were  
 19 constantly asking him when he would retire. All three employees vehemently denied Mr.  
 20 Coleman was experiencing age discrimination.

21 38. On February 6, 2018, Thuringer stated "you should have come down to me, I would have  
 22 beat the shit out of you."

23 39. On February 13, 2018, Wolf provided Mr. Coleman a stellar review of his work. Wolf had  
 24 been monitoring Mr. Coleman without his knowledge for approximately six months,  
 25 including video-taping Mr. Coleman, before and after his return from short term disability  
 26 leave.

27 40. On or about February 20, 2018, Mr. Coleman submitted a complaint of retaliation to Nelsen  
 28 and Yaunick, dated February 17, 2018. In his statement, Mr. Coleman discussed not only

Venckus' discriminatory and retaliatory treatment of him, but also articulated the fact that he was subjected to different treatment by Barrick management as compared to younger employees. Such act constituted a protected activity and, unfortunately, merely stoked Respondent's retaliatory animus against Mr. Coleman.

41. On February 22, 2018, Mr. Coleman's supervisors unfairly downgraded his evaluations to the worst he had received in 25 years of working in the mines. Contrary to Wolf's evaluation, which was laudatory, these evaluations were motivated by agism and retaliatory animus for Mr. Coleman filing his First Charge and retaliation complaint.

42. On February 25, 2018, Thuringer again stated to Mr. Coleman, "you need to retire, when are you going to retire?"

43. On or about March 16, 2018, Mr. Coleman's wife Lawona Coleman ("Mrs. Coleman"), while in Respondent's waiting room, was engaged in conversation with colleague Roger while at work. Another colleague, Manny Trujilo ("Trujilo") joined their conversation, and the topic soon turned to retirement. While Roger and Trujilo, who were both younger than Mr. Coleman, discussed the number of years that they needed to work before retiring, Trujilo suddenly began discussing Mr. Coleman in a disgusted voice, stating "Yeah, we have a guy on our crew, I think he is 72, and he just won't retire." Trujilo's speech was obviously geared toward Mr. Coleman, as they worked on the same crew and Mr. Coleman was the only individual around that age on their crew.

44. Though Trujilo knew that Mrs. Coleman and Mr. Coleman were married, he did not recognize her, as she recently changed her hair color. Mrs. Coleman sat in silence, listening to Trujilo blather on, before asking, "are you talking about Fred Coleman?" Trujilo asked Mrs. Coleman how she knew he was talking about Mr. Coleman, before asking her why Mr. Coleman did not retire. Realizing that he was speaking to Mr. Coleman's wife, Trujilo departed shortly thereafter.

45. In another instance, colleague Juan Ulloa ("Ulloa") noted multiple instances in which Respondent—including a number of Mr. Coleman's supervisors—openly mocked Mr.



1 Coleman on the basis of his age. Ulloa was approximately 41 years old at the time. Many  
 2 of Mr. Coleman's colleagues openly displayed their ageist animus against Mr. Coleman in  
 3 the workplace and were encouraged by their supervisors to do so. Shockingly, Ulloa's  
 4 account includes an instance in which Defendant contemplated unjustly failing Mr. Coleman  
 5 for a training course that he successfully repeated due to his age, specifically stating that he  
 6 was "too slow." Ulloa's statement clearly illustrates the ageist animus against Mr. Coleman.

7 46. On April 1, 2018, Theisen indicated that Defendant would prioritize training younger  
 8 employees and not train older employees.

9 47. On April 3, 2018, Mr. Coleman was threatened by Thuringer on the bus to work. Thuringer  
 10 stated, "Remember this, I am going to get you and don't you forget it." Mr. Coleman knew  
 11 Thuringer was an avid recreational gun user and took this as a serious threat.

12 48. On April 11, 2018, Haulpack Driver Shelly from "D" crew asked Mr. Coleman what his age  
 13 was because "everyone was betting on" his age and she wanted to win the bet.

14 49. On April 27, 2018, Mr. Coleman submitted a written report of Thuringer's threat to Yaunick.

15 50. On April 28, 2018, Defendant trained Haulpack Driver Dave Richardson on a Dozer.  
 16 Richardson was much younger than Mr. Coleman. Defendant routinely passed over older  
 17 employees for equipment training.

18 51. On June 22, 2018, Dozer Trainer Rick Rogers took Mr. Coleman to the Carlin Stock pile;  
 19 Mr. Coleman was finally receiving Dozer training. Mr. Coleman received four days of dozer  
 20 training total. Mr. Coleman had worked a Dozer at another mine for about eight years  
 21 previously and showed proficiency on a Dozer for that reason. Mr. Coleman generally  
 22 received positive remarks from another supervisor (not Rogers) and several Haul truck  
 23 drivers about his Dozer work.

24 52. On one of these days, Rogers directed Mr. Coleman to get into the van to begin training. Mr.  
 25 Coleman was left sitting in the van for a long period of time; later, Rogers and Bernie got  
 26 into the van. Upon entering, Rogers turned to Mr. Coleman and said, "What are you doing  
 27 Fred, fucking off?" Rogers and Bernie laughed. Mr. Coleman responded "no, I'm not f'ing  
 28 off." Rogers degraded Mr. Coleman in front of others due to a discriminatory animus towards



1 his age. Bernie later told Rogers to “fail [Mr. Coleman]” on dozer training because “he is too  
2 old.” Defendant failed Mr. Coleman on the Dozer based upon a discriminatory animus  
3 towards his age.

4 53. During his training, without instruction, Rogers told Mr. Coleman simply to break down the  
5 stock pile. Mr. Coleman would have had to climb a 20-foot vertical pile straight up and climb  
6 another pile 50 to 60 feet up to knock it down. There were 5 or 6 vehicles sitting and  
7 watching Mr. Coleman; no other trainee or younger employee was forced to work for hours  
8 with an audience. Mr. Coleman built a ramp to knock the pile down. Rogers confirmed Mr.  
9 Coleman was building a ramp, then ordered him out of the vehicle to sit in the van. Mr.  
10 Coleman obliged and Rogers used his ramp to knock down the pile. Rogers never let Mr.  
11 Coleman work on the pile again. Defendants did this in order to force Mr. Coleman towards  
12 retirement or resignation, as evidenced by the repeated discriminatory comments made  
13 regarding Mr. Coleman’s age.

14 54. On his second day of training, Mr. Coleman approached Rogers and asked if he had been  
15 instructed to fail Mr. Coleman. Mr. Coleman asked Rogers directly twice; Rogers finally  
16 answered, “I am caught between a rock and a hard place.” Mr. Coleman interpreted this  
17 comment to mean Rogers was directed to fail him on the Dozer based upon a retaliatory  
18 animus towards Mr. Coleman after filing his First Charge.

19 55. Effective January 1, 2019, Mark Bristow became President and Chief Executive Officer for  
20 Defendant. Bristow openly made ageist comments in the press openly touting the benefits  
21 of hiring younger employees, including: “you need to have people who [ . . . ] have the  
22 energy”; “I think this industry is an aging industry”; “we’ve got to bring in young people”;  
23 “We are not getting there in Barrick”; “Young people are important in being able to  
24 introduce that sort of agility [ . . . ] a 55-year-old engineer doesn’t do automation that easily  
25 [ . . . ] a 30-year old, he or she is not scared of it—and we’ve seen that”; “We haven’t got a  
26 good safety record, and a lot of that is because people are actually not in a physical condition  
27 to look after themselves [ . . . ] how can you want to come and work and drive big trucks and  
28 do heavy engineering work when you can’t even help yourself up the stairs?”; “we need to

1 get in front and attract those very bright young people into our organization”; and “we’ve got  
 2 too many out of shape people working in our organization.” See, Exhibit “A.” Bristow’s  
 3 ageist sentiments were implemented soon after he began working for Defendant. Defendant  
 4 displayed ageist sentiments by terminating older employees routinely, or, by making their  
 5 work environments so inhospitable it would force them to quit.

6 56. On June 27, 2019, Theisen commented to Mr. Coleman that Bristow had met with  
 7 management. Bristow had stated Defendant employed “too many old people” and directed  
 8 management to “get rid” of employees “40 years and older.” This directive occurred, notably,  
 9 one month prior to Mr. Coleman’s termination.

10 57. On or about July 12, 2019, Safety Chairman Gary Kump (“Kump”) singled Mr. Coleman out  
 11 during a Crew C-line meeting (C-line was Mr. Coleman’s crew), falsely stating that Mr.  
 12 Coleman “broke-down by shovel 192 last night and did not put his chock blocks down on  
 13 his tires.” After making this false statement, Kump continued to ridicule and demean Mr.  
 14 Coleman in front of the whole crew. Supervisor Tony Daniels was present during Kump’s  
 15 unwarranted tirade against Mr. Coleman, but did not make an effort to stem or stop Kump’s  
 16 behavior. As such, Mr. Coleman interjected on his own behalf, stating “I am tired of being  
 17 singled out for ridicule before the whole crew, creating a hostile environment for me to have  
 18 to work in with false allegations.” Given the color of Mr. Coleman’s past EEOC charge and  
 19 associated complaints, it was clear that Mr. Coleman was articulating a complaint of  
 20 disparate treatment due to his age. Thus, Mr. Coleman opposed discrimination in this  
 21 instance, and his response was protected activity.

22 58. Following the incident, Mr. Coleman spoke with Daniels and requested a meeting with  
 23 Yaunick to discuss his (Mr. Coleman’s) experiences of harassment and disparate treatment  
 24 in the workplace. Daniels told Mr. Coleman that Yaunick was out of office until July 19,  
 25 2019, but that he (Daniels) would arrange a meeting.

26 59. On July 15, 2019, Defendant alleged that Mr. Coleman committed a safety violation by  
 27 failing to lock or place a chock block to secure his haul truck.  
 28

60. On or about July 19, 2019, Mr. Coleman attended his requested meeting with Yaunick. Daniels was also present, along with Theisen, Supervisor Wilbur Greer (“Greer”) and Mine Superintendent Ron Hager (“Hager”). Mr. Coleman briefly discussed his complaints about Kump’s behavior on or about July 12, 2019. Daniels, however, quickly coopted the meeting by accusing Mr. Coleman of failing to set chock blocks around his truck on or about July 15, 2019. Such allegations were wholly false; Mr. Coleman, as he had done in his nearly 20-year career, always followed proper safety regulations with respect to driving his vehicle. Contrary to Respondent’s statements, Mr. Coleman spent an entirety of approximately 30 seconds cleaning his truck lights, and never “became upset and dismissed the fuel attendant’s advice” to chock his truck. In fact, the fuel attendant never requested that Mr. Coleman “re-chock and lock” his truck; rather, the attendant merely asked Mr. Coleman whether he had done so, to which Mr. Coleman replied that he had.

61. Hager continued the meeting by making veiled threats against Mr. Coleman, stating that he had “just terminated some people down in the mill,” and “there sure are a lot of chock blocks being run over.” Hager’s statements in this instance were thinly-veiled statements of intent regarding Respondent’s impending termination of Mr. Coleman.

62. On or about July 23, 2019, HR employee Lisa Chamberlain (“Chamberlain”) called and informed Mr. Coleman that Respondent elected to place him on administrative leave while they investigated the allegations against him, i.e., that Mr. Coleman did not properly set chock blocks while at the fuel bay.

63. During his time on administrative leave, Mr. Coleman learned from colleague Dave Manley (“Manley”) that a Haulpak (i.e., a type of vehicle) driver slid into a bank and destroyed the front left side of his Haulpak, as well as a ladder. Manley further told Mr. Coleman that the day after Respondent placed Mr. Coleman on administrative leave, Haulpak driver Kim Curtis (“Curtis”) ran over two chock blocks at the fuel bay. Even further, Manley relayed that yet another Haulpak driver came too close to another piece of equipment and nearly hit it. All of the events that Manley disclosed to Mr. Coleman were terminable offenses. However, upon information and belief, none of the employees involved were placed on

1 administrative leave as Mr. Coleman had been. The only difference between Mr. Coleman  
2 and these employees was age, along with past protected activities. Each of these employees  
3 was younger than Mr. Coleman.

4 64. Furthermore, immediately prior to his placement on administrative leave, Mr. Coleman filed  
5 a 3R report against Kump for a dangerous near-miss situation, in which Kump was at fault.  
6 Theisen possessed knowledge of the incident prior to Mr. Coleman's report but did not take  
7 any action against Kump. Upon information and belief, Theisen did not take any action  
8 against Kump even after Mr. Coleman filed the 3R report. Such acts clearly demonstrate the  
9 difference in treatment between Mr. Coleman and other colleagues, in that Mr. Coleman  
10 received discipline at significantly higher rates as compared to them.

11 65. On July 31, 2019, Defendant terminated Mr. Coleman, allegedly due to vague "undesirable  
12 behaviors." Defendant held an in-person meeting to terminate Mr. Coleman's employment.  
13 Theisen, Yaunick, Lindskog, and Chamberlain were present. Mr. Coleman's daughter, Dawn  
14 Heath ("Heath"), accompanied Mr. Coleman to the meeting to act as his witness. Though  
15 Respondent initially attempted to deny Heath access to the meeting, they eventually relented  
16 and allowed her to sit in. When Mr. Coleman attempted to read a statement regarding his  
17 experience at Barrick, Lindskog became extremely irate and began yelling at Mr. Coleman.

18 66. For years after his termination, Mr. Coleman was blackballed by Defendants from working  
19 at any other gold mine in the Elko area. Mr. Coleman interviewed for several jobs and was  
20 considered a serious candidate until potential employers learned he had been terminated by  
21 Defendants.

22 67. As mentioned, throughout Mr. Coleman's employment, Defendant terminated or forced  
23 various older employees to retire. These employees, all over the age of forty at the time of  
24 their terminations, include:

- 25 a. Gayle McCoy, Mechanic, approximately 61 at the time of his termination, who hurt  
26 his knee on the job. After reporting his injury, he was terminated and replaced with  
27 a younger employee.  
28

- b. Juan Ulloa, Haul Truck Driver, approximately 41 years of age at the time of termination. Ulloa was injured on the job. Ulloa received a OWCP physician's evaluation indicating he was ready to return to work. Defendants suspended his employment. Two weeks later, Defendant terminated him for alleged "undesirable behavior." Defendant did not provide Ulloa the opportunity to return to work, instead terminating Ulloa.
- c. Leroy Bitton, who was over the age of forty at the time of his termination.
- d. Mike Pope/Rupe, who was in his 50s at the time of his termination.
- e. Gary Manning, who was over the age of forty at the time of his termination.
- f. Another older woman over the age of forty who was singled out and harassed so constantly that Mr. Coleman would often find her crying. She eventually resigned but never raised claims of discrimination for fear of being blackballed by Defendants.

**FIRST CAUSE OF ACTION AGAINST DEFENDANT**  
**(DISCRIMINATION IN VIOLATION OF 29 U.S.C. §623)**

68. Mr. Coleman repeats and realleges each and every paragraph above as if said paragraphs were more fully set forth herein at length.
69. Defendant's discrimination concerned one of the activities protected by the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 623.
70. The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 623, in relevant part states, "(a) Employer practices: It shall be unlawful for an employer:
- (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;
- (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or
- (3) to reduce the wage rate of any employee in order to comply with this

chapter. b) It shall be unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age.

71. Mr. Coleman is a member of a protected class pursuant to the Age Discrimination in Employment Act. Mr. Coleman was born in 1943; he was over the age of forty for all relevant adverse action taken by Defendant underlying this complaint.

72. Mr. Coleman possessed proper qualifications for Defendant to continue his employment, as evidenced by his 25 years of experience and positive performance evaluations.

73. Defendant subjected Mr. Coleman to adverse action in the form of failure to train him on Dozer equipment, a hostile work environment replete with ageist commentary and pressure to retire, and wrongful termination.

74. Defendant and/or its agents evinced a motivation of age discrimination in the adverse action taken against him by generating pretextual reprimands against him in the midst of growing commentary that Defendant was forcing out older employees, subjecting him to discriminatory ageist commentary in the workplace, repeatedly pressuring him to retire, and wrongfully terminating him when he failed to do so.

75. Defendant evinced a pattern of forcing older employees to retire or otherwise terminating their employment beginning in mid-2017, including Mr. Coleman. These efforts were increased two-fold after the placement of Bristow as CEO in January 2019.

76. Defendant subjected Mr. Coleman to disparate treatment in the manner of his employment by training younger employees for dozer work while repeatedly passing him over, subjecting him to baseless reprimands, and terminating his employment. Defendant did not subject similarly situated younger employees to



1 these adverse actions. Mr. Coleman is aware of multiple younger employees who  
 2 engaged in similar activity, namely running over chock-blocks, that were neither  
 3 reprimanded nor terminated as he was for the same alleged indiscretion.

4 77. As a direct and proximate result of Defendant's unlawful and discriminatory  
 5 conduct in violation of 29 U.S.C. §623, Mr. Coleman suffered and continues to  
 6 suffer mental anguish and emotional distress, including but not limited to  
 7 humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-  
 8 confidence, emotional pain and suffering, for which he is entitled to an award of  
 9 monetary damages and other relief.

10 **SECOND CAUSE OF ACTION AGAINST DEFENDANT**  
 11 **(RETALIATION IN VIOLATION OF 29 U.S.C. §623)**

12 78. Mr. Coleman repeats, reiterates, and realleges each and every allegation made in  
 13 the above paragraphs of this Complaint as if more fully set forth herein at length.

14 79. Defendant's retaliation concerned activities protected by The Age Discrimination  
 15 in Employment Act of 1967, 29 U.S.C. § 623.

16 80. The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 623, in relevant  
 17 part states, "(d) Opposition to unlawful practices; participation in investigations,  
 18 proceedings, or litigation: It shall be unlawful for an employer to discriminate  
 19 against any of his employees or applicants for employment . . . because such  
 20 individual, member or applicant for membership has opposed any practice made  
 21 unlawful by this section, or because such individual, member or applicant for  
 22 membership has made a charge, testified, assisted, or participated in any manner  
 23 in an investigation, proceeding, or litigation under this chapter.

24 81. Defendant engaged in an unlawful practice by retaliating against Mr. Coleman due  
 25 to his engagement in protected activity.

26 82. Mr. Coleman engaged in a protected activity by filing a complaint with the Equal  
 27 Employment Opportunity Commission in January 2018. Mr. Coleman also made  
 28 multiple verbal complaints of discrimination throughout 2018 and 2019, which



1 Defendant routinely dismissed.

2 83. Defendant was aware of Mr. Coleman's complaint as evidenced by its response to  
3 his First Charge.

4 84. Defendant took adverse action against Mr. Coleman, including downgrading his  
5 positive reviews, refusing to train him on a dozer or otherwise training him on a  
6 dozer in a way which undermined and ridiculed him, subjected him to unsafe  
7 working conditions, issuing pretextual reprimands against him, and eventually  
8 terminating his employment.

9 85. Defendant and its agents evinced a retaliatory animus against Mr. Coleman based  
10 upon temporal proximity. Mr. Coleman's First Charge was filed in January 2018  
11 and repeated age discrimination complaints in the workplace occurred through  
12 2018 and 2019, including but not limited to meetings held in late January 2018  
13 and mid-July 2019 with both direct supervisors and Human Resources personnel.  
14 These employees refused to accept his complaints. Mr. Coleman experienced  
15 downgraded reviews within two months of the filing of his First charge.  
16 Defendant repeatedly passed over Mr. Coleman for dozer training through May  
17 2018. When he received four days of training in June 2018, less than any younger  
18 employee trained on these machines; he was humiliated and rejected for training  
19 again afterwards. This training took place within six months of Mr. Coleman's  
20 First Charge. Mr. Coleman's First Charge remained under investigation through  
21 the date of his termination, July 31, 2019. The temporal proximity between these  
22 events indicates Defendant's discriminatory animus towards Mr. Coleman.

23 86. Defendant and its agents evinced a retaliatory animus against Mr. Coleman also  
24 by subjecting him to disparate treatment by issuing baseless pretextual reprimands  
25 against him and terminating his employment. Defendant did not subject similarly  
26 situated employees who never engaged in protected activity to these adverse  
27 actions. Mr. Coleman is aware of multiple younger employees who engaged in  
28 similar activity, namely running over chock-blocks, that were neither reprimanded

1 nor terminated as he was for the same alleged indiscretion.

2 87. As a direct and proximate result of Defendant's unlawful and discriminatory  
3 conduct in violation of 29 U.S.C. §623, Mr. Coleman suffered and continues to  
4 suffer mental anguish and emotional distress, including but not limited to  
5 humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-  
6 confidence, emotional pain and suffering, for which he is entitled to an award of  
7 monetary damages and other relief.

8 **THIRD CAUSE OF ACTION AGAINST DEFENDANT**  
9 **(DISCRIMINATION IN VIOLATION OF NV Rev Stat §613.330)**

10 88. Mr. Coleman repeats and realleges each and every paragraph above as if said  
11 paragraphs were more fully set forth herein at length.

12 89. Defendant's discrimination concerned one of the activities protected by the  
13 Nevada Revised Statutes § 613.330.

14 90. The Nevada Revised Statutes § 613.330, in relevant part states, "1. Except as  
15 otherwise provided in NRS 613.350, it is an unlawful employment practice for an  
16 employer:

17 a. To fail or refuse to hire or to discharge any person, or otherwise to  
18 discriminate against any person with respect to the person's compensation, terms,  
19 conditions or privileges of employment, because of his or her race, color, religion,  
20 sex, sexual orientation, gender identity or expression, age, disability or national  
21 origin; or

22 b. To limit, segregate or classify an employee in a way which would deprive  
23 or tend to deprive the employee of employment opportunities or otherwise  
24 adversely affect his or her status as an employee, because of his or her race, color,  
25 religion, sex, sexual orientation, gender identity or expression, age, disability or  
26 national origin."

27 91. Mr. Coleman is a member of a protected class pursuant to the NV Rev. State. §  
28 613.330. Mr. Coleman was born in 1943; he was over the age of forty for all

relevant adverse action taken by Defendant underlying this complaint.

92. Mr. Coleman possessed proper qualifications for Defendant to continue his employment, as evidenced by his 25 years of experience and positive performance evaluations.

93. Defendant subjected Mr. Coleman to adverse action in the form of failure to train him on Dozer equipment, a hostile work environment replete with ageist commentary and pressure to retire, and wrongful termination.

94. Defendant and/or its agents evinced a motivation of age discrimination in the adverse action taken against him by generating pretextual reprimands against him in the midst of growing commentary that Defendant was forcing out older employees, subjecting him to discriminatory ageist commentary in the workplace, repeatedly pressuring him to retire, and wrongfully terminating him when he failed to do so.

95. Defendant evinced a pattern of forcing older employees to retire or otherwise terminating their employment beginning in mid-2017, including Mr. Coleman. These efforts were increased two-fold after the placement of Bristow as CEO in January 2019.

96. Defendant subjected Mr. Coleman to disparate treatment in the manner of his employment by training younger employees for dozer work while repeatedly passing him over, subjecting him to baseless reprimands, and terminating his employment. Defendant did not subject similarly situated younger employees to these adverse actions. Mr. Coleman is aware of multiple younger employees who engaged in similar activity, namely running over chock-blocks, that were neither reprimanded nor terminated as he was for the same alleged indiscretion.

97. As a direct and proximate result of Defendant's unlawful and discriminatory conduct in violation of NV Rev. State. §613.330, Mr. Coleman suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and

1 self-confidence, emotional pain and suffering, for which he is entitled to an award  
2 of monetary damages and other relief.

3 **FOURTH CAUSE OF ACTION AGAINST DEFENDANT**  
4 **(RETALIATION IN VIOLATION OF NV Rev. State. § 613.340)**

5 98. Mr. Coleman repeats, reiterates, and realleges each and every allegation made in  
6 the above paragraphs of this Complaint as if more fully set forth herein at length.

7 99. Defendant's retaliation concerned activities protected by the Nevada Revised  
8 Statutes § 613.340.

9 100. In relevant part, NV Rev. State. § 613.340 states, "1. It is an unlawful employment  
10 practice for an employer to discriminate against any of his or her employees or  
11 applicants for employment, for an employment agency to discriminate against any  
12 person, or for a labor organization to discriminate against any member thereof or  
13 applicant for membership, because the employee, applicant, person or member, as  
14 applicable, has opposed any practice made an unlawful employment practice by  
15 NRS 613.310 to 613.435, inclusive, or because he or she has made a charge,  
16 testified, assisted or participated in any manner in an investigation, proceeding or  
17 hearing under NRS 613.310 to 613.435, inclusive."

18 101. Defendant engaged in an unlawful practice by retaliating against Mr. Coleman due  
19 to his engagement in protected activity.

20 102. Mr. Coleman engaged in a protected activity by filing a complaint with the Equal  
21 Employment Opportunity Commission in January 2018. Mr. Coleman also  
22 complained verbally multiple times of discrimination throughout 2018 and 2019,  
23 which Defendant routinely dismissed.

24 103. Defendant was aware of Mr. Coleman's complaint as evidenced by its response to  
25 his First Charge.

26 104. Defendant took adverse action against Mr. Coleman, including downgrading his  
27 positive reviews, refusing to train him on a dozer or otherwise training him on a  
28 dozer in a way which undermined and ridiculed him, subjected him to unsafe

1 working conditions, issuing pretextual reprimands against him, and eventually  
 2 terminating his employment.

3 105. Defendant and its agents evinced a retaliatory animus against Mr. Coleman based  
 4 upon temporal proximity. Mr. Coleman's First Charge was filed in January 2018  
 5 and repeated age discrimination complaints in the workplace occurred through  
 6 2018 and 2019, including but not limited to meetings held in late January 2018  
 7 and mid-July 2019 with both direct supervisors and Human Resources personnel.  
 8 These employees refused to accept his complaints. Mr. Coleman experienced  
 9 downgraded reviews within two months of the filing of his First charge.  
 10 Defendant repeatedly passed over Mr. Coleman for dozer training through May  
 11 2018. When he received four days of training in June 2018, less than any younger  
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 13 again afterwards. This training took place within six months of Mr. Coleman's  
 14 First Charge. Mr. Coleman's First Charge remained under investigation through  
 15 the date of his termination, July 31, 2019. The temporal proximity between these  
 16 events indicates Defendant's discriminatory animus towards Mr. Coleman.

17 106. Defendant and its agents evinced a retaliatory animus against Mr. Coleman also  
 18 by subjecting him to disparate treatment by issuing baseless pretextual reprimands  
 19 against him and terminating his employment. Defendant did not subject similarly  
 20 situated employees who never engaged in protected activity to these adverse  
 21 actions. Mr. Coleman is aware of multiple younger employees who engaged in  
 22 similar activity, namely running over chock-blocks, that were neither reprimanded  
 23 nor terminated as he was for the same alleged indiscretion.

24 107. As a direct and proximate result of Defendant's unlawful and discriminatory  
 25 conduct in violation of NV Rev. State. § 613.340, Mr. Coleman suffered and  
 26 continues to suffer mental anguish and emotional distress, including but not  
 27 limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and  
 28 self-confidence, emotional pain and suffering, for which he is entitled to an award

of monetary damages and other relief.

**WHEREFORE**, Plaintiff respectfully requests a judgment against Defendant:

- A. Declaring that Defendant engaged in unlawful employment practices prohibited by The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 623 *et seq.* and Nevada Revised Statutes § 613 *et seq.* by discriminating against Mr. Coleman on the basis of age, as well as retaliated against him for engagement in protected activity;
- B. Awarding damages to the Plaintiff, resulting from Defendant's hostile work environment and to otherwise make him whole for any losses suffered as a result of such unlawful employment practice;
- C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to his reputation in an amount to be proven;
- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys' fees, costs, and expenses incurred in the prosecution of the action;

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1 F. Awarding Plaintiff such other and further relief as the Court may deem equitable,  
2 just and proper to remedy the Defendant's unlawful employment practices.

3 Dated this 28<sup>th</sup> day of December, 2020.

4  
5 BRADLEY, DRENDEL & JEANNEY

6  
7 /s/ Daniel T. Hayward  
Daniel T. Hayward (NV Bar No. 5986)  
8 P.O. Box 1987  
Reno, Nevada 89505

9 -and-

10 WHITE, HILFERTY & ALBANESE

11 

12 By:  
13 J. Christopher Albanese (NY Bar No. 3986163)  
Will comply with LR IA 11-2 within 30 days  
14 M. Dinora Smith (NY Bar No. 5588306))  
Will comply with LR IA 11-2 within 30 days  
15 800 Third Avenue, Suite 2800  
New York, New York 10022  
16 ***Attorneys for Plaintiff***



UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

-----X  
FRED COLEMAN,

Plaintiff,

-against-

BARRICK GOLDSTRIKE MINES, INC.,

Defendant.  
-----X


Case No.:

**VERIFICATION**

FRED COLEMAN, pursuant to the provisions of 28 U.S.C. § 1746, declares the following under penalty of perjury that the foregoing is true and correct:

1. I am the Plaintiff herein.
2. I have read the foregoing Complaint and know the content thereof, that the same is of my own knowledge except as to the matters therein stated upon information and belief; and that as to those matters, I believe the same to be true.

Executed : New York, New York  
November 6, 2020

  
Fred Coleman